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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,203	02/12/2002	Dale L. Kuhn	D5114	4422

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EXAMINER

ROSENBERG, LAURA B

ART UNIT	PAPER NUMBER
3616	

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/074,203	KUHN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Laura B Rosenberg	3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-16 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 10 January 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_.  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_                    6) Other: \_\_\_\_

## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because "any ignition switch" should be --an ignition switch-- (line 2). Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1 and 11 recite the limitation "the motor" in line 2. There is insufficient antecedent basis for this limitation in the claims.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaw (5,630,625). In regards to claims 1 and 11, Shaw discloses a wheeled motor vehicle (#1) comprising an ignition switch for turning a motor of the vehicle on and off (column 7, lines 52-53; inherent in a motor vehicle), an auxiliary lift axle (#50) that can

be raised to lift wheels (#12, 35) of the lift axle off an underlying surface (#2) on which the vehicle is supported (best seen in figures 2, 4) and that can be lowered to place the wheels of the lift axle on the underlying surface (best seen in figures 1, 3.), and a control for raising and lowering the lift axle (best seen in figure 14) comprising a circuit (#113) that is fed through the ignition switch when the ignition switch is on but not when the ignition switch is off (column 7, lines 51-53) and that comprises a first switch device (#116) that requires actuation to enable the lift axle to be lowered ("auto" position) and a second switch device (#89) that, once the first switch device has been actuated to enable the lift axle to be lowered, is effective upon being actuated to cause the lift axle to be lowered (float switch #89 is actuated to cause the lift axle to be lowered when the float switch senses fluid in the rear storage compartment).

In regards to claims 2 and 12, Shaw discloses the first switch device (#116) comprising a relay having a normally open ("off" position) contact that is sealed closed ("auto" position) upon the relay being energized by operation of an actuating switch for the relay (manually operated from "off" to "auto" position when it is desired for float switch #89 to determine raising and lowering of lift axle #50).

#### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9, 10, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw (5,630,625) in view of Richardson (6,398,236). In regards to claims 9, 10, 15, and 16, Shaw discloses a transmission for selectively placing the vehicle in a forward gear and a reverse gear (not shown; inherent) and the first switch (#116) comprising an enable relay having a normally open ("off" position) contact that is sealed closed ("auto" position) upon the relay being energized by operation of an actuating switch for the relay (manually operated from "off" to "auto" position when it is desired for float switch #89 to determine raising and lowering of lift axle #50) and the second switch (#89) comprising a raise-lower switch that, when the enable relay has been sealed closed ("auto" position), is operable to a lower position for causing the lift axle to be lowered (best seen in figures 1, 3) and to a raised position for causing the lift axle to be raised (best seen in figures 2, 4). Shaw does not disclose the lift axle being raised when the vehicle has been placed in the reverse drive gear. Richardson teaches a wheeled motor vehicle (column 2, lines 20-23) comprising an ignition switch for turning a motor of the vehicle on and off, an auxiliary lift axle (#22) that can be raised to lift wheels of the lift axle off an underlying surface on which the vehicle is supported and that can be lowered to place the wheels of the lift axle on the underlying surface (column 4, lines 15-19) through the use of a selectively operable switch (#102), and a control for raising and lowering the lift axle (best seen in figures 3, 4). The motor vehicle includes a transmission (#132) for selectively placing the vehicle in a forward drive gear and reverse drive gear. With the lift axle having been lowered, placement of the transmission in reverse drive gear causes the control to raise the lift axle through

the use of a third switch/relay (#134) that changes from one switch state to another switch state in response to occurrence of a signal indicating that the transmission (#132) of the vehicle has been shifted into a reverse drive gear (column 5, lines 41-43; column 5, line 61-column 6, line 8). It would have been obvious to one skilled in the art at the time that the invention was made to modify the wheeled motor vehicle and control of Shaw such that it comprised a raising of the lift axle when the vehicle is in the reverse drive gear as claimed in view of the teachings of Richardson so as to aid in steering when the vehicle is moving in reverse since self-steering of the lift axle is precluded when the vehicle is driven in a rearward direction (Richardson: column 1, lines 35-43).

***Allowable Subject Matter***

8. Claims 3-8, 13, and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
9. The following is a statement of reasons for the indication of allowable subject matter: the allowable subject matter is the second switch device comprising a raise-lower switch that is selectively operable to a lower position and a raise position. While raise-lower switches that perform this function are old and well known in the art, the second switch device could not be modified to include this type of raise-lower switch.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lautzenhisser discloses an ignition switch circuit that controls use of an air spring suspension system. Bernstein et al. and Hauri disclose lift axles with air springs McNeilus et al. and Mlsna et al. disclose lift axles with air springs that automatically raise when vehicle is placed in the reverse gear.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura B Rosenberg whose telephone number is (703) 305-3135. The examiner can normally be reached on Monday-Friday 7:00am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

LBR

*Laura B. Rosenberg* *Paul N. Dickson 9/15/03*  
PAUL N. DICKSON  
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